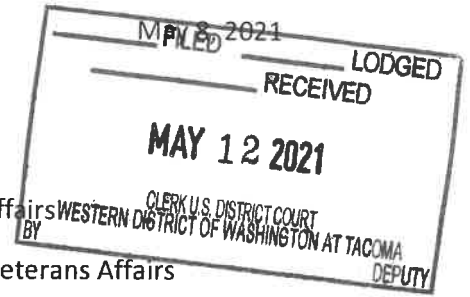


Opposition to Defendants Motion to Dismiss

Civil Case # 3:20-cv-05471-RJB



TOMMY TAYLOR ~ {Plaintiff} (former Employee) Department of Veterans Affairs
DENIS RICHARD MCDONOUGH ~ {Defendants} (Secretary) Department of Veterans Affairs

PLANTIFFS; AFFIDAVIT / AFFIRMATION IN OPPOSITION TO DEFENDANTS MOTION TO DISMISS

ADDRESSED DOCKETS: #29-29-1, 30-30-1, & 3

STATEMENT:

I TOMMY TAYLOR HEREBY AFFIRM THE FOLLOWING UNDER PENALTY OF PERJURY OR BEING DULY
SWORN DEPOSES AND SAYS

I am the PLAINTIFF in this Action and I respectfully submit this Affidavit/Affirmation in opposition
To the Motions identified above by Docket # 29-29-1,30-30-1, & 31 Submitted to the Court, by
The Defendants Attorney: Sarah K. Morehead, Assistant United States Attorney Western District
Of Washington.

The Opposition Motion for Dismissal to be denied is as Follows:

1).Document 29 line 21; Lack of Subject Matter Jurisdiction.

Response: The proof of the Subject Matter Jurisdiction is based on the fact that the Plaintiff resides
In Olympia WA, The next Factor, Is the Discrimination as well as the Harassment occurred
Were committed on Federal Properties in Federal Facilities while the Plaintiff was Employed
By the Department of Veterans Affairs the Facilities where the Actions Occurred are the
American Lake VA Medical Center 9600 Veterans Dr. Tacoma Washington 98493 and the
Seattle Veterans Puget Sound Healthcare System 1660 Columbian Way Seattle Washington
98108.

2). Document 29 line 21; Lack of Personal Jurisdiction.

Response: The Plaintiff would like to refer to this response in (03) parts (a) the Civil Rights Act of 1991
Title I {Federal Civil Rights Remedies}” Sec. 1977A (Damages in Cases of Intentional)
Discrimination in Employment [42 U.S.C. 1981a](a) Right to Recovery(1), Civil Rights (2),

And (3) Reasonable Accommodations and Good Faith Effort, including EEOC's Compliance Manual Section (02) "Threshold Issues" p. 2-73 EEOC Notice 915-003 (July 21, 2005), (Provides that "because an employer has an ONGOING Obligation to provide a Reasonable Accommodation, Failure to provide such accommodation constitutes a Violation each time The Employee needs it." Further, the Commission has specifically held that the denial of Reasonable Accommodation constitutes a recurring VIOLATION that repeats each time the Accommodation is needed. {see} Harmon v. Office of Personnel Management, EEOC Request No. 05930365 (Nov 4, 1999) & Peacock v. Postal Service EEOC Appeal No. 0120032372 (July 31, 2003).

***SPECIAL NOTE!**

Plaintiff is submitting all Documents pertaining to the Response in Opposition, to Dismissal Motion To the Court as well as the Defendants Attorney, to include; Federal Defendants Initial Disclosures Dated (April 12, 2021).

3). Document 29 line 22 Insufficient Process of service.

Response: The Plaintiff was Initially corrected by the District Court and took Immediate Appropriate Action to correct the serving process to include the WA State Attorney and/or the Attorney General of the United States {see} Certified Mail Receipt attached to letters dated (February 25, 2021), Including (Docket 25) filed in The US District Court.

4). Document 29 lines 22 & 23; Reference FRCP 12(b)(1), 12(b)(2), 12(b)(5), & 12(b)(6)

Response: Plaintiff States that although FRCP as stated above indicates provisions regarding (Duplicity) as well as (Multiplicity) the facts will remain the same due to the Multiple UNLAWFUL Actions committed against the Plaintiff as a Civil Service Employee, at 2 Separate Department of Veterans Affairs Facilities while conducting Official Federal Government Duties within the same Service line (NFS) Nutrition & Food Services.

5). Document 29 Pg. 2 lines 2 thru 4; The Subject matter has been clarified in this Document;

Response: I provided the Defendant with Sufficient Evidence that supports my (ADA) Americans With Disabilities Claim, {see} Page 88 of Documents forwarded to defendants Attorney IE... Acceptance Letter from (OWCP) of Plaintiffs conditions incurred from an On-The-Job Injury Dated (October 9, 2008) Plaintiff is still Currently under Physicians Care with a Pending

MRI for Stated Conditions.

- 5). Document 29 Pg. 2 lines 3 & 4 Plaintiff claims to have his Retirement Payments Reflect his Military Service.


Response: Plaintiff is providing a copy of his DD-214 including a copy of his Federal Retirement Booklet of which clearly displays Plaintiffs Military Service in the United States Air Force Honorable Discharge that was not included in his retirement due to his untimely CONSTRUCTIVE DISCHARGE, From Federal service as recognized by EEOC.

- 6). Document 29 Pg. 2 line 9; Exhausted his Administrative Remedies

Response: Plaintiff was Engaged in EEOC Activity, EEOC Case # 551-2016-00160x where the Agency Submitted a Motion for a Dismissal to Administrative Honorable Judge Stephen Gaffin who made a Decision without a Hearing in Favor of the Agency. The Plaintiff made A Decision to elect " The Right to file a Civil Action Pursuant to 29 CFR ~ 1614-407 & 1614-408 as well as 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999) which also states; If a complainant files a Civil Action, The administrative Processing of the Complaint Including any Petition for Enforcement will be Terminated.{See} 29 FRCP ~ 1614-99.

- 7).Document 29 Pg. 2 lines 10-16; Plaintiffs Failure to state for any of his claims under Title VII and the ADEA;

Response: Although the Defendant has stated the (ONLY) Proper Defendant is the Head of the Agency In his or her Official Capacity, Also stating that all other defendants (Must) be Dismissed The Plaintiff does not agree due to the Fact that according to {VHA} Directive 1124 Provides the policy to not (TOLERATE) Discrimination including workplace Harassment. VHA Directive 5975 (Educate) Executives. Managers. And Supervisors on EEO (Reasonable-Accommodation, Disability Employment Diversity & Inclusion as well as Conflict in Management. VHA Directive 5975.1 Dictates the Perimeters for Light Duty Assignments to Include "Reasonable Accommodation" and their function in the WORKFORCE.


Tommy Taylor
(360) 350 9524
charles-taylor@yahoo.com